

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**MARC A. BAUDER, M.D.**

Holder of License No. 15235  
For the Practice of Medicine  
In the State of Arizona.

Case No. MD-02-L088

**CONSENT AGREEMENT FOR  
LICENSE REACTIVATION AND  
PROBATION**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Marc A. Bauder, M.D. ("Respondent"), the parties agreed to the following disposition of this matter at the Board's June 2003 public meeting.

1. Respondent acknowledges that he has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he understands he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement he voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. Respondent acknowledges and understands that this Consent Agreement will not become effective until approved by the Board and signed by its Executive Director.

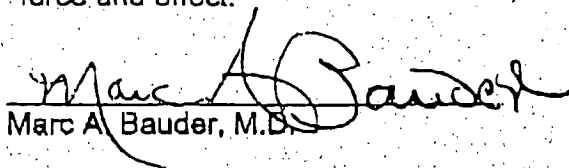
4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government

1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
2 any other state or federal court.

3 5. Respondent acknowledges and agrees that upon signing and returning this  
4 Consent Agreement (or a copy thereof) to the Board's Executive Director, Respondent  
5 may not revoke his acceptance of the Consent Agreement. Respondent may not make  
6 any modifications to the document. Any modifications to this original document are  
7 ineffective and void unless mutually approved by the parties.

8 6. Respondent further understands that this Consent Agreement, once  
9 approved and signed, shall constitute a public record document that may be publicly  
10 disseminated as a formal disciplinary action of the Board and will be reported to the  
11 National Practitioner's Data Bank and posted on the Arizona Medical Board web site.

12 7. If any part of the Consent Agreement is later declared void or otherwise  
13 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in  
14 force and effect.

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16 Marc A. Bauder, M.D.

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Date 

## FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 15235 for the practice of allopathic medicine in the State of Arizona.

3. In January 1997 the Respondent and the Board entered a Stipulation for Rehabilitation ("SRA") based on Respondent's addiction to a controlled substance. In January 1998 the Board terminated the 1997 SRA and entered into another SRA and a Stipulation for Practice Restriction ("1998 Stipulation") requiring that Respondent have a female chaperone present during all physical examinations of female patients requiring that the patient disrobe; that he not treat women or family members of women with whom he had sexual contact or a sexual relationship; and that he remain in therapy. In January 1999 the Board approved Respondent's request to inactivate his license and terminated the SRA. The Board initiated case number MD-02-L088 after Respondent requested that his license be reactivated.

4. Before considering Respondent's request to reactivate his license the Board required, among other things, that he that he provide a detailed statement of his steps to maintain his sobriety during his inactivation; that he document any continuing medical education ("CME") courses taken; that he detail his professional plans should his license be reactivated; and that he complete a competency assessment and evaluation for chemical dependency. Respondent complied with the Board's requirements.

5. Respondent also met with the Board's contracted addiction medicine specialist ("Specialist"). The Specialist recommended that Respondent's license be reactivated with requirements that he participate in the Board's Monitored Aftercare

1 Program ("MAP") and have a chaperone present during examinations of female patients  
2 that require the patient to disrobe.

3 6. Respondent also underwent an evaluation by a Board-approved psychiatrist  
4 who recommended that Respondent practice in a group setting; continue participation in  
5 MAP; remain in the care of a psychiatrist; and continue to have a chaperone present as  
6 noted by Specialist.

### 7 CONCLUSIONS OF LAW

8 1. The Arizona Medical Board possesses jurisdiction over the subject matter  
9 hereof and over Respondent.

10 2. The Board may reactivate Respondent's license upon the presentation of  
11 evidence that Respondent possesses the medical knowledge and is physically and  
12 mentally able to safely engage in the practice of medicine. A.R.S. § 32-1431(D). The  
13 Board may enter into a consent agreement with Respondent to restrict his practice in order  
14 to rehabilitate Respondent, protect the public and ensure Respondent's ability to safely  
15 engage in the practice of medicine. A.R.S. § 32-1451(F).

### 16 ORDER

17 Based upon the foregoing Findings of Fact and Conclusions of Law,

18 IT IS HEREBY ORDERED that:

- 19 1. Respondent's license is reactivated upon payment of the renewal fee.
- 20 2. Respondent shall have a female chaperone present during all physical  
21 examinations requiring a female patient to disrobe.
- 22 3. Respondent shall practice in a group setting. For the purposes of this  
23 Consent Agreement "group setting" means a practice setting that provides Respondent the  
24 support of fellow physicians and other medical practitioners.
- 25

1           4.       Respondent is placed on Probation for two years with the following terms  
2 and conditions:

3           a.       Respondent shall submit quarterly declarations under penalty of perjury on  
4 forms provided by the Board, stating whether there has been compliance with all  
5 conditions of probation. The declarations shall be submitted on or before the 15th of  
6 March, June, September and December of each year, beginning on or before June 2003.

7           b.       Respondent shall pay the costs associated with monitoring his probation as  
8 designated by the Board each and every year of probation. Such costs may be adjusted  
9 on an annual basis. Costs are payable to the Board no later than 60 days after the  
10 effective date of this Consent Agreement and thereafter on an annual basis. Failure to  
11 pay these costs within 30 days of the due date constitutes a violation of probation.

12           c.1. **Participation.** Respondent shall promptly enroll in and participate in the  
13 Monitored Aftercare Program ("MAP") for the treatment and rehabilitation of physicians  
14 who are impaired by alcohol or drug abuse. Respondent shall remain in MAP for two  
15 years from the effective date of this Consent Agreement. Respondent's participation in  
16 MAP may be unilaterally terminated with or without cause at the Board's discretion at any  
17 time after the issuance of this Consent Agreement.

18           2.       **Group Therapy.** Respondent shall attend MAP's group therapy sessions  
19 one time per week for the duration of this Consent Agreement, unless excused by the  
20 MAP group therapist for good cause such as illness or vacation. Respondent shall instruct  
21 the MAP group therapist to release to the Board, upon its request, all records relating to  
22 his treatment, and to submit monthly reports to the Board regarding attendance and  
23 progress. The reports shall be submitted on or before the 10th day of each month.

24           3.       **12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-  
25 step meetings or other self-help group meetings appropriate for substance abuse and

1 approved by the Board, for a period of ninety days beginning not later than either (a) the  
2 first day following his discharge from chemical dependency treatment or (b) the date of this  
3 Consent Agreement.

4 4. Following completion of the ninety meetings in ninety days, Respondent shall  
5 participate in a 12-step recovery program or other self-help program appropriate for  
6 substance abuse as recommended by the MAP group therapist and approved by the  
7 Board. Respondent shall attend a minimum of three 12-step or other self-help program  
8 meetings per week.

9 5. **Board-Approved Primary Care Physician.** Respondent shall promptly  
10 obtain a primary care physician and shall submit the name of the physician to Board Staff  
11 in writing for approval. The Board-approved primary care physician ("PCP") shall be in  
12 charge of providing and coordinating Respondent's medical care and treatment. Except in  
13 an *Emergency*, Respondent shall obtain his medical care and treatment only from the PCP  
14 and from health care providers to whom the PCP refers Respondent from time to time.  
15 Respondent shall request that the PCP document all referrals in the medical record.  
16 Respondent shall promptly inform the PCP of his rehabilitation efforts and provide a copy  
17 of this Consent Agreement to that physician. Respondent shall also inform all other health  
18 care providers who provide medical care or treatment that he is participating in the Board's  
19 rehabilitation program.

20 6. **Medication.** Except in an *Emergency*, Respondent shall take no  
21 *Medication*, unless his PCP or other health care provider to whom the PCP makes a  
22 referral has prescribed the *Medication*. Respondent shall not self-prescribe any  
23 *Medication*.

24 7. If a controlled substance is prescribed, dispensed, or is administered to  
25 Respondent by any person other than PCP, Respondent shall notify the PCP in writing

1 within 48 hours. The notification shall contain all information required for the medication  
2 log entry specified in paragraph 8. Respondent shall request that the notification be made  
3 a part of the medical record. This paragraph does not authorize Respondent to take any  
4 *Medication* other than in accordance with paragraph 6.

5       **8.     Medication Log.** Respondent shall maintain a current legible log of all  
6 *Medication* taken by or administered to him, and shall make the log available to the Board  
7 and its Staff upon request. For *Medication* (other than controlled substances) taken on an  
8 on-going basis, Respondent may comply with this paragraph by logging the first and last  
9 administration of the *Medication* and all changes in dosage or frequency. The log, at a  
10 minimum, shall include the following:

- 11           a.     Name and dosage of *Medication* taken or administered;
- 12           b.     Date taken or administered;
- 13           c.     Name of prescribing or administering physician;
- 14           d.     Reason *Medication* was prescribed or administered.

15 This paragraph does not authorize Respondent to take any *Medication* other than in  
16 accordance with paragraph 6.

17       **9.     No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or  
18 any food or other substance containing poppy seeds or alcohol.

19       **10.    Biological Fluid Collection.** During all times that Respondent is physically  
20 present in the State of Arizona and such other times as Board Staff may direct,  
21 Respondent shall promptly comply with requests from Board Staff, the MAP group  
22 therapist, or the MAP director to submit to witnessed biological fluid collection. If  
23 Respondent is directed to contact an automated telephone message system to determine  
24 when to provide a specimen, she shall do so within the hours specified by Board Staff.  
25 For the purposes of this paragraph, in the case of an in-person request, "promptly comply"

1 means "immediately". In the case of a telephonic request, "promptly comply" means that,  
2 except for good cause shown, Respondent shall appear and submit to specimen collection  
3 not later than two hours after telephonic notice to appear is given. The Board in its sole  
4 discretion shall determine good cause.

5 11. Respondent shall provide Board Staff in writing with one telephone number  
6 that shall be used to contact him on a 24 hour per day/seven day per week basis to submit  
7 to biological fluid collection. For the purposes of this section, telephonic notice shall be  
8 deemed given at the time a message to appear is left at the contact telephone number  
9 provided by Respondent. Respondent authorizes any person or organization conducting  
10 tests on the collected samples to provide testing results to the Board and the MAP  
11 director.

12 12. Respondent shall cooperate with collection site personnel regarding  
13 biological fluid collection. Repeated complaints from collection site personnel regarding  
14 Respondent's lack of cooperation regarding collection may be grounds for termination  
15 from the program.

16 13. Payment for Services. Respondent shall pay for all costs, including  
17 personnel and contractor costs, associated with participating in the Monitored  
18 Aftercare Program at time service is rendered, or within 30 days of each invoice  
19 sent to him.

20 14. Examination. Respondent shall submit to mental, physical, and medical  
21 competency examinations at such times and under such conditions as directed by the  
22 Board to assist the Board in monitoring his ability to safely perform as a physician and his  
23 compliance with the terms of this Consent Agreement.

24 15. Treatment. Respondent shall submit to all medical, substance abuse, and  
25 mental health care and treatment ordered by the Board, or recommended by the MAP



1 director.

2 16. **Obey All Laws.** Respondent shall obey all federal, state and local laws, and  
3 all rules governing the practice of medicine in the State of Arizona.

4 17. **Interviews.** Respondent shall appear in person before the Board and its  
5 Staff and committees for interviews upon request, upon reasonable notice.

6 18. **Address and Phone Changes, Notice.** Respondent shall immediately  
7 notify the Board in writing of any change in office or home addresses and telephone  
8 numbers. Respondent shall provide Board Staff at least three business days advance  
9 written notice of any plans to be away from office or home for more than five consecutive  
10 days. The notice shall state the reason for the intended absence from home or office, and  
11 shall provide a telephone number that may be used to contact Respondent.

12 19. **Relapse, Violation.** In the event of chemical dependency relapse by  
13 Respondent or Respondent's use of drugs or alcohol in violation of this Consent  
14 Agreement, Respondent's shall promptly enter into an Interim Consent Agreement that  
15 requires, among other things, that Respondent not practice medicine until such time as  
16 Respondent successfully completes an inpatient or residential treatment program for  
17 chemical dependency designated by the Board or Board Staff and obtains the affirmative  
18 approval of the Board to return to the practice of medicine. Prior to approving  
19 Respondent's request to return to the practice of medicine, Respondent may be required  
20 to submit to witnessed biological fluid collection, undergo any combination of physical  
21 examination, psychiatric or psychological evaluation, and/or pass the special purpose  
22 licensing examination. In no respect shall the terms of this paragraph restrict the Board's  
23 authority to initiate and take disciplinary action for violation of this Consent Agreement.

24 20. **Notice Requirements.**

25 (A) Respondent shall immediately provide a copy of this Consent Agreement

1 to all employers and all hospitals and free standing surgery centers at which he currently  
2 has privileges. Within 30 days of the date of this Consent Agreement, Respondent shall  
3 provide the Board with a signed statement that he has complied with this notification  
4 requirement. Upon any change in employer or upon the granting of privileges at additional  
5 hospitals and free standing surgery centers, Respondent shall provide the employer,  
6 hospital or free standing surgery center with a copy of this Consent Agreement. Within 30  
7 days of a change in employer or upon the granting of privileges at additional hospitals and  
8 free standing surgery centers, Respondent shall provide the Board with a signed  
9 statement that he has complied with this notification requirement.

10 (B) Respondent is further required to notify, in writing, all employers,  
11 hospitals and free standing surgery centers at which Respondent currently has or in the  
12 future gains employment or privileges, of a chemical dependency relapse, use of drugs or  
13 alcohol in violation of this Consent Agreement and/or entry into a treatment program.  
14 Within seven days of any of these events Respondent shall provide the Board written  
15 confirmation that he has complied with this notification requirement.

16 (C) Respondent shall immediately submit to the Board under penalty of  
17 perjury, on a form provided by the Board, the name(s) and address(es) of all employers  
18 and all hospitals and free standing surgery centers at which he currently holds privileges to  
19 practice. Respondent is further required to, under penalty of perjury, on a form provided  
20 by the Board, immediately notify the Board of any changes in employment and of any  
21 hospitals and free standing surgery centers at which he gains privileges after the effective  
22 date of this Consent Agreement.

23 21. Public Record. This Consent Agreement is a public record.

24 22. Out-of State. In the event Respondent resides or practices as a physician in  
25 a state other than Arizona, he shall participate in the rehabilitation program sponsored by

that state's medical licensing authority or medical society. Respondent shall cause the other state's program to provide written reports to the Board regarding his attendance, participation, and monitoring. The reports shall be due on or before the 15th day of March and September of each year, until the Board terminates this requirement in writing.

23. Respondent shall immediately obtain a treating psychiatrist approved by Board Staff and shall remain in treatment with the psychiatrist for a minimum of 12 months. Respondent shall comply with the psychiatrist's recommendations for continuing care and treatment. Respondent shall instruct the psychiatrist to submit quarterly written reports to the Board regarding diagnosis, prognosis, and recommendations for continuing care and treatment. The reports must be submitted on or before the 15th day of March, June, September and December of each year. Respondent shall pay the expenses of psychiatric care and is responsible for paying for the preparation of the quarterly reports. After 12 months Respondent may submit a written request to the Executive Director requesting that the Board terminate the requirement that Respondent remain in treatment with a psychiatrist. The decision to terminate will be based in part upon the treating psychiatrist's recommendation for continued care and treatment.

24. This Consent Agreement supersedes all previous consent agreements and stipulations between the Board and Respondent.

25. The Board retains jurisdiction and may initiate new action based upon any violation of this Consent Agreement.

## II. DEFINITIONS

"**Medication**" means "prescription-only drug, controlled substance, and over-the-counter preparation, other than plain aspirin and plain acetaminophen."

"**Emergency**" means "a serious accident or sudden illness that, if not treated immediately, may result in a long-term medical problem or loss of life."

1 This Consent Agreement is the final disposition of case number MD-02-L088.

2 DATED this 11<sup>th</sup> day of June, 2003.

3  
4 ARIZONA MEDICAL BOARD

5  
6 By Barry A. Cassidy  
7 BARRY A. CASSIDY, Ph.D. PA-C  
8 Executive Director  
9

10 ORIGINAL of the foregoing filed this  
11 11<sup>th</sup> day of JUNE, 2003 with:

12 The Arizona Medical Board  
13 9545 East Doubletree Ranch Road  
14 Scottsdale, Arizona 85258

15 Executed copy of the foregoing  
16 mailed by U.S. Certified Mail this  
17 11<sup>th</sup> day of JUNE, 2003, to:

18 Marc A. Bauder, M.D.  
19 1960 West Keating Avenue  
20 #271  
21 Mesa, Arizona 85202-7031

22 Copy of the foregoing hand-delivered this  
23 11<sup>th</sup> day of JUNE, 2003, to:

24 Christine Cassetta  
25 Assistant Attorney General  
Sandra Waitt, Management Analyst  
Compliance  
Investigations (Investigation File)  
Arizona Medical Board  
9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

Brenda Adeli